

## APPENDIX I

### <sup>1</sup>THE CONSTITUTION (APPLICATION TO JAMMU AND KASHMIR) ORDER, 1954

#### C.O. 48

In exercise of the powers conferred by clause (1) of article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Order, 1954.

(2) It shall come into force on the fourteenth day of May, 1954, and shall thereupon supersede the Constitution (Application to Jammu and Kashmir) Order, 1950.

2. <sup>2</sup>[The provisions of the Constitution as in force on the 20th day of June, 1964 and as amended by the Constitution (Nineteenth Amendment) Act, 1966, the Constitution (Twenty-first Amendment) Act, 1967, section 5 of the Constitution (Twenty-third Amendment) Act, 1969, the Constitution (Twenty-fourth Amendment) Act, 1971, section 2 of the Constitution (Twenty-fifth Amendment) Act, 1971, the Constitution (Twenty-sixth Amendment) Act, 1971, the Constitution (Thirtieth Amendment) Act, 1972, section 2 of the Constitution (Thirty-first Amendment) Act, 1973, section 2 of the Constitution (Thirty-third Amendment) Act, 1974, sections 2, 5, 6 and 7 of the Constitution (Thirty-eighth Amendment) Act, 1975, the Constitution (Thirty-ninth Amendment) Act, 1975, the Constitution (Fortieth Amendment) Act, 1976, sections 2, 3 and 6 of the Constitution (Fifty-second Amendment) Act, 1985 and the Constitution (Sixty-first Amendment) Act, 1988 which, in addition to article 1 and article 370, shall apply in relation to the State of Jammu and Kashmir and the exceptions and modifications subject to which they shall so apply shall be as follows:—]

(1) THE PREAMBLE.

(2) PART I.

To article 3, there shall be added the following further proviso, namely:—

“Provided further that no Bill providing for increasing or diminishing the area of the State of Jammu and Kashmir or altering the name or boundary of that State shall be introduced in Parliament without the consent of the Legislature of that State.”.

(3) PART II.

(a) This Part shall be deemed to have been applicable in relation to the State of Jammu and Kashmir as from the 26th day of January, 1950.

(b) To article 7, there shall be added the following further proviso, namely:—

“Provided further that nothing in this article shall apply to a permanent resident of the State of Jammu and Kashmir, who, after having so migrated to the territory now included in Pakistan, returns to the territory of that State under a permit for resettlement in that State or permanent return issued by or under the authority of any law made by the Legislature of that State, and every such person shall be deemed to be a citizen of India.”.

(4) PART III.

(a) In article 13, references to the commencement of the Constitution shall be construed as references to the commencement of this Order.

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1. Published with the Ministry of Law notification No. S.R.O. 1610, dated the 14<sup>th</sup> May, 1954, Gazette of India, Extraordinary, Part II, Section 3, page 821.

2. The opening words have been successively amended by C.O. 56, C.O. 74, C.O. 76, C.O. 79, C.O. 89, C.O. 91, C.O. 94, C.O. 98, C.O. 104, C.O. 105, C.O. 108, C.O. 136 and C.O. 141 to read as above.

$$1 \left[ \begin{array}{ccccc} * & & * & & * \end{array} \right]$$

(c) In clause (3) of article 16, the reference to the State shall be construed as not including a reference to the State of Jammu and Kashmir.

(d) In article 19, for a period of 2<sup>3</sup>[twenty-five] years] from the commencement of this Order:—

(i) in clauses (3) and (4), after the words “in the interests of”, the words “the security of the State or” shall be inserted;

(ii) in clause (5), for the words “or for the protection of the interests of any Scheduled Tribes”, the words “or in the interests of the security of the State” shall be substituted; and

(iii) the following new clause shall be added, namely:—

‘(7) The words “reasonable restrictions” occurring in clauses (2), (3), (4) and (5) shall be construed as meaning such restrictions as the appropriate Legislature deems reasonable.’

(e) In clauses (4) and (7) of article 22, for the word “Parliament”, the words “the Legislature of the State” shall be substituted.

(f) In article 31, clauses (3), (4) and (6) shall be omitted; and for clause (5), there shall be substituted the following clause, namely:—

“(5) Nothing in clause (2) shall affect—

(a) the provisions of any existing law; or

(b) the provisions of any law which the State may hereafter make—

(i) for the purpose of imposing or levying any tax or penalty; or

(ii) for the promotion of public health or the prevention of danger to life or property; or

(iii) with respect to property declared by law to be evacuee property.”.

(g) In article 31A, the proviso to clause (1) shall be omitted; and for sub-clause (a) of clause (2), the following sub-clause shall be substituted, namely:—

“(a) “estate” shall mean land which is occupied or has been let for agricultural purposes or for purposes subservient to agriculture, or for pasture, and includes—

(i) sites of buildings and other structures on such land;

(ii) trees standing on such land;

(iii) forest land and wooded waste;

(iv) area covered by or fields floating over water;

(v) sites of *jandars* and *gharats*;

(vi) any *jagir*, *inam*, *muafi* or *mukarrari* or other similar grant, but does not include—

(i) the site of any building in any town, or town area or village *abadi* or any land appurtenant to any such building or site;

1. Cl. (b) omitted by C.O. 124, (w.e.f. 4-12-1985).

2. Subs. by C.O. 69, for "ten years".

3. Subs. by C.O. 97, for "twenty".

(ii) any land which is occupied as the site of a town or village; or

(iii) any land reserved for building purposes in a municipality or notified area or cantonment or town area or any area for which a town planning scheme is sanctioned.<sup>1</sup>

<sup>1</sup>[(h) In article 32, clause (3) shall be omitted.]

(i) In article 35—

(i) references to the commencement of the Constitution shall be construed as references to the commencement of this Order;

(ii) in clause (a) (i), the words, brackets and figures “clause (3) of article 16, clause (3) of article 32” shall be omitted; and

(iii) after clause (b), the following clause shall be added, namely:—

“(c) no law with respect to preventive detention made by the Legislature of the State of Jammu and Kashmir, whether before or after the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954, shall be void on the ground that it is inconsistent with any of the provisions of this part, but any such law shall, to the extent of such inconsistency, cease to have effect on the expiration of <sup>2</sup>[<sup>3</sup>twenty-five] years] from the commencement of the said Order, except as respects things done or omitted to be done before the expiration thereof.”.

(j) After article 35, the following new article shall be added, namely:—

“35A. *Saving of laws with respect to permanent residents and their rights.*— Notwithstanding anything contained in this Constitution, no existing law in force in the State of Jammu and Kashmir, and no law hereafter enacted by the Legislature of the State,—

(a) defining the classes of persons who are, or shall be, permanent residents of the State of Jammu and Kashmir; or

(b) conferring on such permanent residents any special rights and privileges or imposing upon other persons any restrictions as respects—

(i) employment under the State Government;

(ii) acquisition of immovable property in the State;

(iii) settlement in the State; or

(iv) right to scholarships and such other forms of aid as the State Government may provide,

shall be void on the ground that it is inconsistent with or takes away or abridges any rights conferred on the other citizens of India by any provision of this Part.”.

(5) PART V.

<sup>4</sup>[(a) For the purposes of article 55, the population of the State of Jammu and Kashmir shall be deemed to be sixty-three lakhs.

(b) In article 81, for clauses (2) and (3), the following clauses shall be substituted, namely:—

“(2) For the purposes of sub-clause (a) of clause (1),—

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1. Subs. by C.O. 89.

2. Subs. by C.O. 69, for “ten years”.

3. Subs. by C.O. 97 for “twenty”.

4. Subs. by C.O. 98, for cls. (a) and (b).

(a) there shall be allotted to the State six seats in the House of the People;

(b) the State shall be divided into single member territorial constituencies by the Delimitation Commission constituted under the Delimitation Act, 1972, in accordance with such procedure as the Commission may deem fit;

(c) the constituencies shall, as far as practicable, be geographically compact areas, and in delimiting them regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and public convenience; and

(d) the constituencies into which the State is divided shall not comprise the area under the occupation of Pakistan.

(3) Nothing in clause (2) shall affect the representation of the State in the House of the People until the dissolution of the House existing on the date of publication in the Gazette of India of the final order or orders of the Delimitation Commission relating to the delimitation of parliamentary constituencies under the Delimitation Act, 1972.

(4) (a) The Delimitation Commission shall associate with itself for the purpose of assisting it in its duties in respect of the State, five persons who shall be members of the House of the People representing the State.

(b) The persons to be so associated from the State shall be nominated by the Speaker of the House of the People having due regard to the composition of the House.

(c) The first nominations to be made under sub-clause (b) shall be made by the Speaker of the House of the People within two months from the commencement of the Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1974.

(d) None of the associate members shall have a right to vote or to sign any decision of the Delimitation Commission.

(e) If owing to death or resignation, the office of an associate member falls vacant, it shall be filled as soon as may be practicable by the Speaker of the House of the People and in accordance with the provisions of sub-clauses (a) and (b).”.]

<sup>1</sup>[(c) In article 133, after clause (1), the following clause shall be inserted, namely:—

‘(1A) The provisions of section 3 of the Constitution (Thirtieth Amendment) Act, 1972, shall apply in relation to the State of Jammu and Kashmir subject to the modification that references therein to “this Act”, “the commencement of this Act”, “this Act had not been passed” and “as amended by this Act” shall be construed respectively as references to “the Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1974”, “the commencement of the said Order”, “the said Order had not been made” and “as it stands after the commencement of the said Order”.’.]

<sup>2</sup>[(d)] In article 134, clause (2), after the words “Parliament may”, the words “on the request of the Legislature of the State” shall be inserted.

<sup>2</sup>[(e)] Articles 135 <sup>3</sup>\*\*\* and 139 shall be omitted.

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1. Ins. by C.O. 98.

2. Cl. (c) and (d) renumbered as cls. (d) and (e), *ibid*.

3. The figures “136” omitted by C.O. 60.

4. Cls. (f) and (g) omitted by C.O. 56.

<sup>1</sup>[(5A) PART VI.

<sup>2</sup>[(a) Articles 153 to 217, article 219, article 221, articles 223, 224, 224A and 225 and articles 227 to 237 shall be omitted.]

(b) In article 220, references to the commencement of the Constitution shall be construed as references to the commencement of the Constitution (Application to Jammu and Kashmir) Amendment Order, 1960.

<sup>3</sup>[(c) In article 222, after clause (1), the following new clause shall be inserted, namely:—

“(1A) Every such transfer from the High Court of Jammu and Kashmir or to that High Court shall be made after consultation with the Governor.”.]

(6) PART XI.

<sup>4</sup>[(a) In article 246, for the words, brackets and figures “clauses (2) and (3)” occurring in clause (1), the word, brackets and figure “clause (2)” shall be substituted, and the words, brackets and figure “Notwithstanding anything in clause (3),” occurring in clause (2) and the whole of clauses (3) and (4) shall be omitted.]

<sup>5</sup><sup>6</sup>[(b) For article 248, the following article shall be substituted, namely:—

“248. *Residuary powers of legislation.*—Parliament has exclusive power to make any law with respect to—

<sup>7</sup>[(a) Prevention of activities involving terrorist acts directed towards overawing the Government as by law established or striking terror in the people or any section of the people or alienating any section of the people or adversely affecting the harmony amongst different sections of the people;

<sup>8</sup>[(aa)] <sup>9</sup>[Prevention of other activities] directed towards disclaiming, questioning or disrupting the sovereignty and territorial integrity of India or bringing about cession of a part of the territory of India or secession of a part of the territory of India from the Union or causing insult to the Indian National Flag, the Indian National Anthem and this Constitution; and

(b) taxes on—

(i) foreign travel by sea or air;

(ii) inland air travel;

(iii) postal articles, including money orders, phonograms and telegrams.”.

<sup>10</sup>[*Explanation.*—In this article, “terrorist act” means any act or thing by using bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal weapons or poisons or noxious gases or other chemicals or any other substances (whether biological or otherwise) of a hazardous nature.]

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1. Ins by C.O. 60 (w.e.f. 26-1-1960).

2. Subs. by C.O. 39.

3. Subs. by C.O. 74 (w.e.f. 24-11-1965).

4. Subs. by C.O. 66.

5. Cls. (b) and (bb) subs. by C.O. 85, for original cl. (b).

6. Subs. by C.O. 93, for cl. (b).

7. Ins. by C.O. 122.

8. Cl. (a) renumbered as cl. (aa), *ibid.*

9. Subs. by *ibid.*, for “prevention of activities”.

10. Ins. by C.O. 122.

<sup>1</sup>[(*bb*) In article 249, in clause (*I*), for the words “any matter enumerated in the State List specified in the resolution”, the words “any matter specified in the resolution, being a matter which is not enumerated in the Union List or in the Concurrent List” shall be substituted.]]

(*c*) In article 250, for the words “to any of the matters enumerated in the State List”, the words “also to matters not enumerated in the Union List” shall be substituted.

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(*e*) To article 253, the following proviso shall be added, namely:—

“Provided that after the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954, no decision affecting the disposition of the State of Jammu and Kashmir shall be made by the Government of India without the consent of the Government of that State.”.

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<sup>4</sup>[(*f*)] Article 255 shall be omitted.

<sup>4</sup>[(*g*)] Article 256 shall be re-numbered as clause (*I*) of that article, and the following new clause shall be added thereto, namely:—

“(2) The State of Jammu and Kashmir shall so exercise its executive power as to facilitate the discharge by the Union of its duties and responsibilities under the Constitution in relation to that State; and in particular, the said State shall, if so required by the Union, acquire or requisition property on behalf and at the expense of the Union, or if the property belongs to the State, transfer it to the Union on such terms as may be agreed, or in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India.”.

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<sup>6</sup>[(*h*)] In clause (2) of article 261, the words “made by Parliament” shall be omitted.

## (7) PART XII.

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<sup>8</sup>[(*a*)] Clause (2) of article 267, article 273, clause (2) of article 283 <sup>9</sup>[and article 290] shall be omitted.

<sup>8</sup>[(*b*)] In articles 266, 282, 284, 298, 299 and 300, references to the State or States shall be construed as not including references to the State of Jammu and Kashmir.

<sup>8</sup>[(*c*)] In articles 277 and 295, references to the commencement of the Constitution shall be construed as references to the commencement of this order.

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1. Subs. by C.O. 129.

2. Cl. (*d*) omitted by *ibid*.

3. Cl. (*f*) omitted by C.O. 66.

4. Cls. (*g*) and (*h*) renumbered as cls. (*f*) and (*g*) *ibid*.

5. Cl. (*i*) omitted by C.O. 56.

6. Cl. (*j*) renumbered as cl. (*i*) by C.O. 56 and again renumbered as cl. (*h*) by C.O. 66.

7. Cls. (*a*) and (*b*) inserted by C.O. 55 have been omitted by C.O. 56.

8. Cls. (*a*), (*b*) and (*c*) [renumbered as cls. (*c*), (*d*) and (*e*) respectively by C.O. 55] have again been renumbered as cls. (*a*), (*b*) and (*c*) respectively by C.O. 56.

9. Subs. by C.O. 94, for “article 290 and 291”.

(8) PART XIII.

<sup>1</sup>\*\*\* In clause (1) of article 303, the words “by virtue of any entry relating to trade and commerce in any of the Lists in the Seventh Schedule” shall be omitted.

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(9) PART XIV.

<sup>2</sup>[In article 312, after the words “the States”, the brackets and words “(including the State of Jammu and Kashmir)” shall be inserted.]

<sup>3</sup>[(10) PART XV.

(a) In clause (1) of article 324, the reference to the Constitution shall, in relation to elections to either House of the Legislature of Jammu and Kashmir, be construed as a reference to the Constitution of Jammu and Kashmir.

<sup>4</sup>[(b) In articles 325, 326, 327 and 329, the reference to a State shall be construed as not including a reference to the State of Jammu and Kashmir.

(c) Article 328 shall be omitted.]

(d) In article 329, the words and figures “or article 328” shall be omitted.]]

<sup>5</sup>[(e) In article 329A, clauses (4) and (5) shall be omitted.]

(11) PART XVI.

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<sup>7</sup>[(a)] Articles 331, 332, 333, <sup>8</sup>[336 and 337] shall be omitted.

<sup>9</sup>[(b)] In articles 334 and 335, references to the State or the States shall be construed as not including references to the State of Jammu and Kashmir.

<sup>10</sup>[(c) In clause (1) of article 339, the words “the administration of the Scheduled Areas and” shall be omitted.]

(12) PART XVII.

The provisions of the Part shall apply only in so far as they relate to—

(i) the official language of the Union;

(ii) the official language for communication between one State and another, or between a State and the Union; and

(iii) the language of the proceedings in the Supreme Court.

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1. Brackets and letters “(a)” and cl. (b) omitted by C.O. 56.  
2. Subs. by *ibid.* for previous modifications.  
3. Subs. by C.O. 60, for sub-paragraph (10) (w.e.f. 26-1-1960).  
4. Subs. by C.O. 75, for cls. (b) and (c).  
5. Ins. by C.O. 105.  
6. Cl. (a) omitted by C.O. 124.  
7. Cls. (b) and (c) renumbered as cls. (a) and (b), *ibid.*  
8. Subs. by *ibid.*, for “336, 337, 339 and 342”.  
9. Cls. (b) and (c) renumbered as cls. (a) and (b), *ibid.*  
10. Ins. by *ibid.*

(13) PART XVIII.

(a) To article 352, the following new clause shall be added, namely:—

<sup>1</sup>[(6)] No Proclamation of Emergency made on grounds only of internal disturbance or imminent danger thereof shall have effect in relation to the State of Jammu and Kashmir (except as respects article 354) <sup>2</sup>[unless—

(a) it is made at the request or with the concurrence of the Government of that State, or

(b) where it has not been so made, it is applied subsequently by the President to that State at the request or with the concurrence of the Government of that State.”;

<sup>3</sup>[(b) In clause (1) of article 356, references to provisions or provision of this Constitution shall, in relation to the State of Jammu and Kashmir, be construed as including references to provisions or provision of the Constitution of Jammu and Kashmir.]

<sup>4</sup>[(bb) In clause (4) of the article 356, after the second proviso, the following proviso shall be inserted, namely:—

‘Provided also that in the case of the Proclamation issued under clause (1) on the 18th day of July, 1990 with respect to the State of Jammu and Kashmir, the reference in the first proviso to this clause to “three years” shall be construed as a reference to <sup>5</sup>[“seven years”].]

(c) Article 360 shall be omitted.]

(14) PART XIX.

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<sup>7</sup>[(a)] <sup>8</sup>[Article 365] shall be omitted.

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<sup>10</sup>[(b)] To article 367, there shall be added the following clause, namely:—

“(4) For the purposes of this Constitution as it applies in relation to the State of Jammu and Kashmir—

(a) references to this Constitution or to the provisions thereof shall be construed as references to the Constitution or the provisions thereof as applied in relation to the said State;

<sup>11</sup>[(aa)] references to the person for the time being recognised by the President on the recommendation of the Legislative Assembly of the State as the *Sadar-i-Riyasat* of Jammu and Kashmir, acting on the advice of the Council of Ministers of the State for the time being in office, shall be construed as references to the Governor of Jammu and Kashmir;

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1. Subs. by C.O. 104, for “(4)”.

2. Subs. by C.O. 100, for certain words.

3. Subs. by C.O. 71.

4. Added by C.O. 151.

5. Subs. by C.O. 162, for “six years”.

6. Cl. (a) omitted by C.O. 74.

7. Cls. (b) and (c) renumbered as cls. (a) and (b) by C.O. 74.

8. Subs. by C.O. 94, for “Articles 362 and 365”.

9. Original cl. (c) omitted by C.O. 56.

10. Cls. (b) and (c) renumbered as cls. (a) and (b) by C.O. 74.

11. Subs. by *ibid.*, for cl. (b).



(b) references to the Government of the said State shall be construed as including references to the Governor of Jammu and Kashmir acting on the advice of his Council of Ministers:

Provided that in respect of any period prior to the 10th day of April, 1965, such references shall be construed as including references to the *Sadar-i-Riyasat* acting on the advice of his Council of Ministers;]

(c) references to a High Court shall include references to the High Court of Jammu and Kashmir;

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<sup>2</sup>[(d)] references to the permanent residents of the said State shall be construed as meaning persons who, before the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954 were recognised as State subjects under the laws in force in the State or who are recognised by any law made by the Legislature of the State as permanent residents of the State; and

<sup>3</sup>[(e) references to a Governor shall include references to the Governor of Jammu and Kashmir:

Provided that in respect of any period prior to the 10th day of April, 1965, such references shall be construed as references to the person recognised by the President as the *Sadar-i-Riyasat* of Jammu and Kashmir and as including references to any person recognised by the President as being competent to exercise the powers of the *Sadar-i-Riyasat*.”.]

#### (15) PART XX.

<sup>4</sup>[(a)] <sup>5</sup>[To clause (2) of article 368], the following proviso shall be added, namely:—

“Provided further that no such amendment shall have effect in relation to the State of Jammu and Kashmir unless applied by order of the President under clause (1) of article 370.”.

<sup>6</sup>[(b) After clause (3) of article 368, the following clause shall be added, namely:—

“(4) No law made by the Legislature of the State of Jammu and Kashmir seeking to make any change in or in the effect of any provision of the Constitution of Jammu and Kashmir relating to—

(a) appointment, powers, functions, duties, emoluments, allowances, privileges or immunities of the Governor; or

(b) superintendence, direction and control of elections by the Election Commission of India, eligibility for inclusion in the electoral rolls without discrimination, adult suffrage and composition of the Legislative Council, being matters specified in sections 138, 139, 140 and 50 of the Constitution of Jammu and Kashmir,

shall have any effect unless such law has, after having been reserved for the consideration of the President, received his assent.”.]

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1. Cl. (d) omitted by C.O. 56.

2. Cl. (e) renumbered as cl. (d), *ibid*.

3. Subs. by C.O. 74, for cl. (e).

4. Numbered as cl. (a) by C.O. 101.

5. Subs. by C.O. 91, for “To article 368”.

6. Ins. by C.O. 101.

(16) PART XXI.

(a) Articles 369, 371, <sup>1</sup>[371A], <sup>2</sup>[372A], 373, clauses (1), (2), (3) and (5) of article 374 and <sup>3</sup>[articles 376 to 378A and 392] shall be omitted.

(b) In article 372—

(i) clauses (2) and (3) shall be omitted;

(ii) references to the laws in force in the territory of India shall include references to *hidayats, ailans, ishtihars, circulars, robkars, irshads, yadashts*, State Council Resolutions, Resolutions of the Constituent Assembly, and other instruments having the force of law in the territory of the State of Jammu and Kashmir; and

(iii) references to the commencement of the Constitution shall be construed as references to the commencement of this Order.

(c) In clause (4) of article 374, the reference to the authority functioning as the Privy Council of a State shall be construed as a reference to the Advisory Board constituted under the Jammu and Kashmir Constitution Act, 1996 and references to the commencement of the Constitution shall be construed as references to the commencement of this Order.

(17) PART XXII.

Articles 394 and 395 shall be omitted.

(18) FIRST SCHEDULE.

(19) SECOND SCHEDULE.

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(20) THIRD SCHEDULE.

Forms V, VI, VII and VIII shall be omitted.

(21) FOURTH SCHEDULE.

<sup>5</sup>[(22) SEVENTH SCHEDULE.

(a) In the Union List—

(i) for entry 3, the entry “3. Administration of cantonments.” shall be substituted;

<sup>6</sup>[(ii) entries 8, 9 <sup>7</sup>[and 34], <sup>8\*\*\*\*</sup> entry 79, and the words “Inter-State migration” in entry 81 shall be omitted;]

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<sup>10</sup>[(iii) in entry 72, the reference to the States shall be construed,—

(a) in relation to appeals to the Supreme Court from any decision or order of the High Court of the State of Jammu and Kashmir made in an election petition whereby an election to either House of the Legislature of that State has been called in question, as including a reference to the State of Jammu and Kashmir;

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1. Ins. by C.O. 74.

2. Ins. by C.O. 56.

3. Subs. by *ibid.*, for “articles 376 to 392”.

4. Modification relating to paragraph 6 omitted by C.O. 56.

5. Subs. by C.O. 66, for sub-paragraph (22).

6. Subs. by C.O. 85, for item (ii).

7. Subs. by C.O. 92, for “34 and 60”.

8. The words and figures ‘the word “and records” in entry 67 omitted by C.O. 95.

9. Original item (iii) omitted by C.O. 74.

10. Subs. by C.O. 83, for item (iii).

(b) in relation to other matters, as not including a reference to that State]; <sup>1</sup>[and]

<sup>2</sup>[(iv) for entry 97, the following entry shall be substituted, namely:—

<sup>3</sup>‘97. Prevention of activities—

(a) involving terrorist acts directed towards overawing the Government as by law established or striking terror in the people or any section of the people or alienating any section of the people or adversely affecting the harmony amongst different sections of the people;

(b) directed towards disclaiming, questioning or disrupting the sovereignty and territorial integrity of India or bringing about cession of a part of the territory of India or secession of a part of the territory of India from the Union or causing insult to the Indian National Flag, the Indian National Anthem and this Constitution,

taxes on foreign travel by sea or air, on inland air travel and on postal articles, including money orders, phonograms and telegrams.

*Explanation.*—In this entry, “terrorist act” has the same meaning as in the *Explanation* to article 248.’]],

(b) The State List shall be omitted.

<sup>4</sup>[(c) In the Concurrent List—

<sup>5</sup>[(i) for entry 1, the following entry shall be substituted, namely:—

“1. Criminal law (excluding offences against laws with respect to any of the matters specified in List I and excluding the use of naval, military or air forces or any other armed forces of the Union in aid of the civil power) in so far as such criminal law relates to offences against laws with respect to any of the matters specified in this List.”;]

<sup>6</sup>[(ia) for entry 2, the following entry shall be substituted, namely:—

“2. Criminal procedure (including prevention of offences and constitution and organisation of criminal courts, except the Supreme Court and the High Court) in so far as it relates to,—

(i) offences against laws with respect to any matters being matters with respect to which Parliament has power to make laws; and

(ii) administration of oaths and taking of affidavits by diplomatic and consular officers in any foreign country.”;

(ib) for entry 12, the following entry shall be substituted, namely:—

“12. Evidence and oaths in so far as they relate to,—

(i) administration of oaths and taking of affidavits by diplomatic and consular officers in any foreign country; and

(ii) any other matters being matters with respect to which Parliament has power to make laws.”;

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1. Ins. by C.O. 85.

2. Subs. by C.O. 93, for item (iv).

3. Subs. by C.O. 122, for entry 97.

4. Subs. by C.O. 69.

5. Subs. by C.O. 70, for item (i).

6. Ins. by C.O. 94.

7. Subs. by C.O. 122, for sub-clauses (ia) and (ib).

(*ic*) for entry 13, the entry “13. Civil procedure in so far as it relates to administration of oaths and taking of affidavits by diplomatic and consular officers in any foreign country.” shall be substituted;]

1\* \* \* \*

<sup>2</sup>[<sup>3</sup>(*ii*)] for entry 30, the entry “30. Vital statistics in so far as they relate to births and deaths including registration of births and deaths.” shall be substituted;

4\* \* \*

<sup>5</sup>[(*iii*) entry 3, entries 5 to 10 (both inclusive), entries 14, 15, 17, 20, 21, 27, 28, 29, 31, 32, 37, 38, 41 and 44 shall be omitted;

(*iiia*) for entry 42, the entry “42. Acquisition and requisitioning of property, so far as regards acquisition of any property covered by entry 67 of List I or entry 40 of List III or of any human work of art which has artistic or aesthetic value.” shall be substituted; and]

<sup>6</sup>[(*iv*)] in entry 45, for the words and figures “List II or List III”, the words “this List” shall be substituted.]

## (23) EIGHTH SCHEDULE.

## <sup>7</sup>[(24) NINTH SCHEDULE.

<sup>8</sup>[(*a*)] After entry 64, the following entries shall be added, namely:—

<sup>9</sup>[64A]. The Jammu and Kashmir State Kuth Act (No. I of Svt. 1978).

<sup>9</sup>[64B]. The Jammu and Kashmir Tenancy Act (No. II of Svt. 1980).

<sup>9</sup>[64C]. The Jammu and Kashmir Alienation of Land Act (No. V of Svt. 1995).

10\* \* \*

<sup>11</sup>[64D]. The Jammu and Kashmir Big Landed Estates Abolition Act (No. XVII of Svt. 2007).

<sup>11</sup>[64E]. Order No. 6-H of 1951, dated the 10th March, 1951, regarding Resumption of Jagirs and other assignments of land revenue, etc.

<sup>12</sup>[64F]. The Jammu and Kashmir Restitution of Mortgaged Properties Act, 1976 (Act XIV of 1976).

64G. The Jammu and Kashmir Debtors' Relief Act, 1976 (Act XV of 1976).]

<sup>13</sup>[(*b*) Entries 87 to 124, inserted by the Constitution (Thirty-ninth Amendment) Act, 1975, shall be renumbered as entries 65 to 102 respectively.]

<sup>14</sup>[(*c*) Entries 125 to 188 shall be renumbered as entries 103 to 166 respectively.]

1. Item (*ii*) and (*iii*) omitted by C.O. 74.

2. Ins. by C.O. 70.

3. Item (*iv*) renumbered as item (*ii*) by C.O. 74.

4. Item (*v*) and (*vi*) omitted by C.O. 72.

5. Subs. by C.O. 95, for item (*iii*).

6. Item (*vi*) renumbered as item (*iv*) by C.O. 74.

7. Subs. by *ibid.*, for sub-paragraph (24).

8. Numbered by C.O. 105.

9. Re-numbered by C.O. 98.

10. Omitted by C.O. 106.

11. Renumbered by *ibid.*

12. Ins. by C.O. 106.

13. Ins. by C.O. 105.

14. Ins. by C.O. 108 (w.e.f. 31-12-1977).

<sup>1</sup>[(25) TENTH SCHEDULE.

(a) for the brackets, words and figures “[Articles 102(2) and 191(2)]”, the brackets, word and figures “[Article 102(2)]” shall be substituted;

(b) in clause (a) of paragraph 1, the words “or the Legislative Assembly or, as the case may be, either House of the Legislature of a State” shall be omitted;]

(c) in paragraph 2,—

(i) in sub-paragraph (1), in sub-clause (ii) of clause (b) of the *Explanation*, the words and figures “or, as the case may be, article 188” shall be omitted;

(ii) in sub-paragraph (3), the words and figures “or, as the case may be, article 188” shall be omitted;

(iii) in sub-paragraph (4), the reference to the commencement of the Constitution (Fifty-second Amendment) Act, 1985 shall be construed as a reference to the commencement of the Constitution (Application to Jammu and Kashmir) Amendment Order, 1989;

(d) in paragraph 5, the words “or the Chairman or the Deputy Chairman of the Legislative Council of a State or the Speaker or the Deputy Speaker of the Legislative Assembly of a State” shall be omitted;

(e) in sub-paragraph (2) of paragraph 6, the words and figures “or, as the case may be, proceedings in the Legislature of a State within the meaning of article 212” shall be omitted;

(f) in sub-paragraph (3) of paragraph 8, the words and figures “or, as the case may be, article 194,” shall be omitted.]

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1. Ins. by C.O. 136.

## APPENDIX II

### RE-STATEMENT, WITH REFERENCE TO THE PRESENT TEXT OF THE CONSTITUTION, OF THE EXCEPTIONS AND MODIFICATIONS SUBJECT TO WHICH THE CONSTITUTION APPLIES TO THE STATE OF JAMMU AND KASHMIR

[*Note*.—The exceptions and modifications subject to which the Constitution applies to the 'State of Jammu and Kashmir are either those provided in the Constitution (Application to Jammu and Kashmir) Order, 1954 or those consequential to the non-application to the State of Jammu and Kashmir of certain amendments to the Constitution. All the exceptions and modifications which have a practical significance are included in the re-statement which is only for facility of quick reference. For ascertaining the exact position, reference will have to be made to the Constitution (Application to Jammu and Kashmir) Order, 1954 and to the text of the Constitution on the 20th June, 1964, as amended by the subsequent amendments to the Constitution mentioned in clause 2 of the said Order.]

#### (1) THE PREAMBLE.

- (a) In the first paragraph, omit “SOCIALIST SECULAR”;
- (b) in the penultimate paragraph, omit “and integrity”.

#### (2) PART I.

*Article 3*.—

- (a) Add the following further proviso, namely:—

“Provided further that no Bill providing for increasing or diminishing the area of the State of Jammu and Kashmir or altering the name or boundary of that State shall be introduced in Parliament without the consent of the Legislature of that State.”;

- (b) omit *Explanation I* and *Explanation II*.

#### (3) PART II.

- (a) This Part shall be deemed to have been applicable in relation to the State of Jammu and Kashmir as from the 26th day of January, 1950.

- (b) *Article 7*.—Add the following further proviso, namely:—

“Provided further that nothing in this article shall apply to a permanent resident of the State of Jammu and Kashmir who, after having so migrated to the territory now included in Pakistan, returns to that territory of that State under a permit for resettlement in that State or permanent return issued by or under the authority of any law made by the Legislature of that State, and every such person shall be deemed to be a citizen of India.”.

#### (4) PART III.

- (a) *Article 13*.—References to the commencement of the Constitution shall be construed as references to the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954 (C.O. 48), *i.e.*, the 14th day of May, 1954.

\* \* \* \* \*

- (c) *Article 16*.—In clause (3), reference to the State shall be construed as not including a reference to the State of Jammu and Kashmir.

- (d) *Article 19*.—

- (A) In clause (1),—

- (i) in sub-clause (e), omit “and” at the end;
- (ii) after sub-clause (e), insert the following clause, namely:—  
“(f) to acquire, hold and dispose of property; and”;

(B) in clause (5), for “sub-clauses (d) and (e)”, substitute “sub-clauses (d), (e) and (f)”.

(e) Article 22.—In clauses (4) and (7), for “Parliament”, substitute “the Legislature of the State”.

(f) Article 30.—Omit clause (1A).

(g) After article 30, insert the following, namely:—

*“Right to Property*

**31. Compulsory acquisition of property.**—(1) No person shall be deprived of his property save by authority of law.

(2) No property shall be compulsorily acquired or requisitioned save for a public purpose and save by authority of a law which provides for acquisition or requisitioning of the property for an amount which may be fixed by such law or which may be determined in accordance with such principles and given in such manner as may be specified in such law; and no such law shall be called in question in any court on the ground that the amount so fixed or determined is not adequate or that the whole or any part of such amount is to be given otherwise than in cash:

Provided that in making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1) of article 30, the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.

(2A) Where a law does not provide for the transfer of the ownership or right to possession of any property to the State or to a Corporation owned or controlled by the State, it shall not be deemed to provide for the compulsory acquisition or requisitioning of property, notwithstanding that it deprives any person of his property.

(2B) Nothing in sub-clause (f) of clause (1) of article 19 shall affect any such law as is referred to in clause (2).

\* \* \* \* \*

(5) Nothing in clause 2 shall affect—

(a) the provisions of any existing law; or

(b) the provisions of any law which the State may hereafter make—

(i) for the purpose of imposing or levying any tax or penalty; or

(ii) for the promotion of public health or the prevention of danger to life or property; or

(iii) with respect to property declared by law to be evacuee property.”.

\* \* \* \* \*

(h) After article 31, omit the following sub-heading, namely:—

***“Saving of Certain Laws”***

(i) Article 31A.—

(A) In clause (1),—

(i) for “article 14 or article 19”, substitute “article 14, article 19 or article 31”;

(ii) omit the first proviso to clause (1);

(iii) in the second proviso omit “further”;

(B) in clause (2), for sub-clause (a), substitute the following sub-clause, namely:—

‘(a) “estate” shall mean land which is occupied or has been let for agricultural purposes or for purposes subservient to agriculture, or for pasture, and includes—

(i) sites of buildings and other structures on such land;

(ii) trees standing on such land;

- (iii) forest land and wooded waste;
- (iv) area covered by or fields floating over water;
- (v) sites of jandars and gharats;
- (vi) any *jagir, inam, muafi or mukarrari* or other similar grant,

but does not include—

- (i) the site of any building in any town, or town area or village abadi or any land appurtenant to any such building or site;
- (ii) any land which is occupied as the site of a town or village; or
- (iii) any land reserved for building purposes in a municipality or notified area or cantonment or town area or any area for which a town planning scheme is sanctioned;’.

(j) Article 31C.— This article is not applicable to the State of Jammu and Kashmir.

(k) Article 32.— Omit clause (3).

(l) Article 35.—

(A) References to the commencement of the Constitution shall be construed as references to the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954 (C.O. 48), *i.e.*, the 14th day of May, 1954;

(B) in clause (a) (i), omit “clause (3) of article 16, clause (3) of article 32”;

(C) after clause (b), add the following clause, namely:—

“(c) no law with respect to preventive detention made by the Legislature of the State of Jammu and Kashmir, whether before or after the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954, shall be void on the ground that it is inconsistent with any of the provisions of this Part, but any such law shall, to the extent of such inconsistency, cease to have effect on the expiration of twenty-five years from the commencement of the said Order, except as respects things done or omitted to be done before the expiration thereof.”.

(m) After article 35, add the following article, namely:—

“35A. *Saving of laws with respect to permanent residents and their rights.*—Notwithstanding anything contained in this Constitution, no existing law in force in the State of Jammu and Kashmir, and no law hereafter enacted by the Legislature of the State,—

(a) defining the classes of persons who are, or shall be, permanent residents of the State of Jammu and Kashmir; or

(b) conferring on such permanent residents any special rights and privileges or imposing upon other persons any restrictions as respects—

(i) employment under the State Government;

(ii) acquisition of immovable property in the State;

(iii) settlement in the State; or

(iv) right to scholarships and such other forms of aid as the State Government may provide,

shall be void on the ground that it is inconsistent with or takes away or abridges any rights conferred on the other citizens of India by any provision of this Part.”.

**(5) PART IV.**—This part is not applicable to the State of Jammu and Kashmir.



(6) **PART IVA.**—This part is not applicable to the State of Jammu and Kashmir.

(7) **PART V.**—

(a) *Article 55.*—

(A) For the purposes of this article, the population of the State of Jammu and Kashmir shall be deemed to be sixty-three lakhs;

(B) in the *Explanation* omit the proviso.

(b) *Article 81.*—For clauses (2) and (3), substitute the following clauses, namely:—

“(2) For the purposes of sub-clause (a) of clause (1),—

(a) there shall be allotted to the State six seats in the House of the People;

(b) the State shall be divided into single-member territorial constituencies by the Delimitation Commission constituted under the Delimitation Act, 1972, in accordance with such procedure as the Commission may deem fit;

(c) the constituencies shall, as far as practicable, be geographically compact areas, and in delimiting them regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and public convenience; and

(d) the constituencies into which the State is divided shall not comprise the area under the occupation of Pakistan.

(3) Nothing in clause (2) shall affect the representation of the State in the House of the People until the dissolution of the House existing on the date of publication in the Gazette of India of the final order or orders of the Delimitation Commission relating to the delimitation of parliamentary constituencies under the Delimitation Act, 1972.

(4) (a) The Delimitation Commission shall associate with itself for the purpose of assisting it in its duties in respect of the State, five persons who shall be members of the House of the People representing the State.

(b) The persons to be so associated from the State shall be nominated by the Speaker of the House of the People having due regard to the composition of the House.

(c) The first nominations to be made under sub-clause (b) shall be made by the Speaker of the House of the People within two months from the commencement of the Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1974.

(d) None of the associate members shall have a right to vote or to sign any decision of the Delimitation Commission.

(e) If owing to death or resignation, the office of an associate member falls vacant, it shall be filled as soon as may be practicable by the Speaker of the House of the People and in accordance with the provisions of sub-clauses (a) and (b).”.

(c) *Article 82.*—Omit the second and third provisos.

(d) *Article 105.*—In clause (3), for “shall be those of that House and of its members and committees immediately before the coming into force of section 15 of the Constitution (Forty-fourth Amendment) Act, 1978” substitute “shall be those of the House of Commons of the Parliament of the United Kingdom, and of its members and committees, at the commencement of this Constitution.”.

(e) For article 132, substitute the following article, namely:—

‘132. *Appellate jurisdiction of Supreme Court in appeals from High Courts in certain cases.*—

(1) An appeal shall lie to the Supreme Court from any judgment, decree or final order of a High Court in the territory of India, whether in a civil, criminal or other proceeding, if the High Court certifies that the case involves a substantial question of law as to the interpretation of this Constitution.

(2) Where the High Court has refused to give such a certificate, the Supreme Court may, if it is satisfied that the case involves a substantial question of law as to the interpretation of this Constitution, grant special leave to appeal from such judgment, decree or final order.

(3) Where such a certificate is given, or such leave is granted, any party in the case may appeal to the Supreme Court on the ground that any such question as aforesaid has been wrongly decided and, with the leave of the Supreme Court, on any other ground.

*Explanation.*—For the purposes of this article, the expression “final order” includes an order deciding an issue which, if decided in favour of the appellant, would be sufficient for the final disposal of the case.’.

(f) Article 133.—

(A) In clause (1), omit “under article 134A”;

(B) after clause (1), insert the following clause, namely:—

“(1A) The provisions of section 3 of the Constitution (Thirtieth Amendment) Act, 1972, shall apply in relation to the State of Jammu and Kashmir subject to the modification that references therein to “this Act”, “the commencement of this Act”, “this Act had not been passed” and “as amended by this Act” shall be construed respectively as references to “the Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1974”, “the commencement of the said Order”, “the said Order had not been made” and “as it stands after the commencement of the said Order”’.

(g) Article 134.—

(A) in clause (1), in sub-clause (c), omit “under article 134A”;

(B) in clause (2), after “Parliament may” insert “on the request of the Legislature of the State”.

(h) Articles 134A, 135, 139 and 139A.—These articles are not applicable to the State of Jammu and Kashmir.

(i) Article 145.—In clause (1), omit sub-clause (cc).

(j) Article 150.—For “as the President may, on the advice of the Comptroller and Auditor-General of India, prescribe” substitute “as the Comptroller and Auditor-General of India may, with the approval of the President prescribe”.

## **(8) PART VI.**

(a) Omit articles 153 to 217, article 219, article 221, articles 223, 224, 224A and 225, articles 227 to 233, article 233A and articles 234 to 237.

(b) Article 220.—References to the commencement of the Constitution shall be construed as references to the commencement of the Constitution (Application to Jammu and Kashmir) Amendment Order, 1960, *i.e.*, the 26th January, 1960.

(c) Article 222.—After clause (1), insert the following clause, namely:—

“(1A) Every such transfer from the High Court of Jammu and Kashmir or to that High Court shall be made after consultation with the Governor.”.

(d) Article 226.—

(A) renumber clause (2) as clause (1A);

(B) omit clause (3);

(C) renumber clause (4) as clause (2); and in clause (2) as so renumbered, for “this article” substitute “clause (1) or clause (1A)”.

**(9) PART VIII.**—This part is not applicable to the State of Jammu and Kashmir.

**(10) PART X.**—This part is not applicable to the State of Jammu and Kashmir.

**(11) PART XI.**

(a) Article 246.—

(A) in clause (1), for “clauses (2) and (3)” substitute “clause (2),”;

(B) in clause (2), omit “Notwithstanding anything in clause (3),”;

(C) omit clauses (3) and (4).

(b) For article 248, substitute the following article, namely:—

‘248. *Residuary powers of legislation.*—Parliament has exclusive power to make any law with respect to—

(a) prevention of activities involving terrorist acts directed towards overawing the Government as by law established or striking terror in the people or any section of the people or alienating any section of the people or adversely affecting the harmony amongst different sections of the people;

(aa) prevention of other activities directed towards disclaiming, questioning or disrupting the sovereignty and territorial integrity of India or bringing about cession of a part of the territory of India or secession of a part of the territory of India from the Union or causing insult to the Indian National Flag, the Indian National Anthem and this Constitution; and

(b) taxes on—

(i) foreign travel by sea or air;

(ii) inland air travel;

(iii) postal articles, including money orders, phonograms and telegrams.

*Explanation.*— In this article, “terrorist act” means any act or thing by using bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal weapons or poisons or noxious gases or other chemicals or any other substances (whether biological or otherwise) of a hazardous nature.’

(bb) Article 249, in clause (1), for “any matter enumerated in the State List specified in the resolution”, substitute “any matter specified in the resolution, being a matter which is not enumerated in the Union List or in the Concurrent List”.

(c) Article 250.— For “to any of the matters enumerated in the State List” substitute “also to matters not enumerated in the Union List”.

(d) Omit clause (d).

(e) Article 253.— Add the following proviso, namely:—

“Provided that after the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954, no decision affecting the disposition of the State of Jammu and Kashmir shall be made by the Government of India without the consent of the Government of that State.”.

(f) Omit article 255.

(g) *Article 256.*—Renumber this article as clause (1) thereof, and add the following new clause thereto, namely:—

“(2) The State of Jammu and Kashmir shall so exercise its executive power as to facilitate the discharge by the Union of its duties and responsibilities under the Constitution in relation to that State; and in particular, the said State shall, if so required by the Union, acquire or requisition property on behalf and at the expense of the Union, or if the property belongs to the State, transfer it to the Union on such terms as may be agreed, or in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India.”.

(h) *Article 261.*—In clause (2), omit “made by Parliament”.

## **(12) PART XII.**

(a) *Articles 266, 282, 284, 298, 299 and 300.*—In these articles references to the State or States shall be construed as not including references to the State of Jammu and Kashmir;

(b) Omit clause (2) of article 267, article 273, clause (2) of article 283 and article 290;

(c) *Articles 277 and 295.*—In these articles references to the commencement of the Constitution shall be construed as references to the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954, *i.e.*, the 14th day of May, 1954;

(d) Omit the sub-heading “CHAPTER IV.—RIGHT TO PROPERTY” and article 300A.

## **(13) PART XIII.**

In article 303, in clause (1), omit “by virtue of any entry relating to trade and commerce in any of the Lists in the Seventh Schedule”.

## **(14) PART XIV.**

Except in article 312, reference to “State” in this Part does not include the State of Jammu and Kashmir.

## **(15) PART XIVA.**

This Part is not applicable to the State of Jammu and Kashmir.

## **(16) PART XV.—**

(a) *Article 324.*—In clause (1), the reference to the Constitution shall, in relation to elections to either House of the Legislature of Jammu and Kashmir, be construed as a reference to the Constitution of Jammu and Kashmir.

(b) *Articles 325, 326 and 327.*— In these articles the references to a State shall be construed as not including a reference to the State of Jammu and Kashmir.

(c) Omit article 328.

(d) *Article 329.*—

(A) Reference to a State shall be construed as not including a reference to the State of Jammu and Kashmir;

(B) omit “or article 328”.

## **(17) PART XVI. —Original clause (a) omitted and clauses (b) and (c) relettered as clauses (a) and (b).**

(a) Omit articles 331, 332, 333, 336 and 337.

(b) *Articles 334 and 335.*—References to the State or the States shall be construed as not including references to the State of Jammu and Kashmir.

(c) Article 339, in clause (1), omit “the administration of the Scheduled Areas and”.

**(18) PART XVII.**—The provisions of this Part shall apply to the State of Jammu and Kashmir only in so far as they relate to—

(i) the official language of the Union;

(ii) the official language for communication between one State and another, or between a State and the Union; and

(iii) the language of the proceedings in the Supreme Court.

**(19) PART XVIII.**

(a) For article 352, substitute the following article, namely:—

“352. *Proclamation of Emergency.*—(1) If the President is satisfied that a grave emergency exists whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance, he may, by Proclamation, make a declaration to that effect.

(2) A Proclamation issued under clause (1)—

(a) may be revoked by a subsequent Proclamation;

(b) shall be laid before each House of Parliament;

(c) shall cease to operate at the expiration of two months unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament:

Provided that if any such Proclamation is issued at a time when the House of the People has been dissolved or the dissolution of the House of the People takes place during the period of two months referred to in sub-clause (c), and if a resolution approving the Proclamation has been passed by the Council of States but no resolution with respect to such Proclamation has been passed by the House of the People before the expiration of that period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the Proclamation has been also passed by the House of the people.

(3) A Proclamation of Emergency declaring that the security of India or of any part of the territory thereof is threatened by war or by external aggression or by internal disturbance may be made before the actual occurrence of war or of any such aggression or disturbance if the President is satisfied that there is imminent danger thereof.

(4) The power conferred on the President by this article shall include the power to issue different Proclamations on different grounds, being war or external aggression or internal disturbance or imminent danger of war or external aggression or internal disturbance, whether or not there is a Proclamation already issued by the President under clause (1) and such Proclamation is in operation.

(5) Notwithstanding anything in the Constitution,—

(a) the satisfaction of the President mentioned in clause (1) and clause (3) shall be final and conclusive and shall not be questioned in any court on any ground;

(b) subject to the provisions of clause (2), neither the Supreme Court nor any other Court shall have jurisdiction to entertain any question, on any ground, regarding the validity of —

(i) a declaration made by Proclamation by the President to the effect stated in clause (1);  
or

(ii) the continued operation of such Proclamation.

(6) No Proclamation of Emergency made on grounds only of internal disturbance or imminent danger thereof shall have effect in relation to the State of Jammu and Kashmir (except as respects article 354) unless—

(a) it is made at the request or with the concurrence of the Government of that State; or

(b) where it has not been so made, it is applied subsequently by the President to that State at the request or with the concurrence of the Government of that State.”.

(b) *Article 353.*— Omit the proviso.

(c) *Article 356.*—

(A) In clause (1), reference to provisions or provision of this Constitution shall, in relation to the State of Jammu and Kashmir, be construed as including references to provisions or provision of the Constitution of Jammu and Kashmir;

(B) in clause (4),—

(i) for the opening portion, substitute the following, namely:—

“A Proclamation so approved shall, unless revoked, cease to operate on the expiration of a period of six months from the date of the passing of the second of the resolutions approving the Proclamation under clause (3)”;

(ii) after the second proviso, the following proviso shall be inserted, namely:—

‘Provided also that in the case of the Proclamation issued under clause (1) on the 18th day of July, 1990 with respect to the State of Jammu and Kashmir, the reference in the first proviso to this clause to “three years” shall be construed as a reference to “seven years”.’.

(C) for clause (5), substitute the following clause, namely:—

“(5) Notwithstanding anything in this Constitution, the satisfaction of the President mentioned in clause (1) shall be final and conclusive and shall not be questioned in any court on any ground.”.

(d) *Article 357.*—For clause (2), substitute the following clause, namely:—

“(2) Any law made in exercise of the power of the Legislature of the State by Parliament or the President or other authority referred to in sub-clause (a) of clause (1) which Parliament or the President or such other authority would not, but for the issue of a Proclamation under article 356, have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of a period of one year after the Proclamation has ceased to operate except as respects things done or omitted to be done before the expiration of the said period, unless the provisions which shall so cease to have effect are sooner repealed or re-enacted with or without modification by Act of the appropriate Legislature.”.

(e) For article 358, substitute the following article, namely:—

“358. ***Suspension of provisions of article 19 during emergencies.***—While a Proclamation of Emergency is in operation, nothing in article 19 shall restrict the power of the State as defined in Part III to make any law or to take any executive action which the State would but for the provisions contained in that Part be competent to make or to take, but any law so made shall, to the extent of the incompetency, cease to have effect as soon as the Proclamation ceases to operate, except as respects things done or omitted to be done before the law so ceases to have effect.”.

(f) *Article 359.*—

(A) in clause (1) omit “(except articles 20 and 21)”;

(B) in clause (1A),—

- (i) omit “(except articles 20 and 21)”;
- (ii) omit the proviso;
- (C) omit clause (1B);
- (D) in clause (2), omit the proviso.
- (g) omit article 360.

**(20) PART XIX.**

- (a) *Article 361A.*—This article is not applicable to the State of Jammu and Kashmir.
- (b) Omit article 365.
- (c) *Article 367.*—After clause (3), add the following clause, namely:—

“(4) For the purposes of this Constitution as it applies in relation to the State of Jammu and Kashmir —

(a) references to this Constitution or to the provisions thereof shall be construed as references to the Constitution or the provisions thereof as applied in relation to the said State;

(aa) references to the person for the time being recognised by the President on the recommendation of the Legislative Assembly of the State as the Sadar-i-Riyasat of Jammu and Kashmir, acting on the advice of the Council of Ministers of the State for the time being in office, shall be construed as references to the Governor of Jammu and Kashmir;

(b) references to the Government of the said State shall be construed as including references to the Governor of Jammu and Kashmir acting on the advice of his Council of Ministers;

Provided that in respect of any period prior to the 10th day of April, 1965, such references shall be construed as including references to the Sadar-i-Riyasat acting on the advice of his Council of Ministers;

(c) references to a High Court shall include references to the High Court of Jammu and Kashmir;

(d) references to the permanent residents of the said State shall be construed as meaning persons who, before the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954, were recognised as State subjects under the laws in force in the State or who are recognised by any law made by the Legislature of the State as permanent residents of the State; and

(e) references to a Governor shall include references to the Governor of Jammu and Kashmir:

Provided that in respect of any period prior to the 10th day of April, 1965, such references shall be construed as references to the person recognised by the President as the Sadar-i-Riyasat of Jammu and Kashmir and as including references to any person recognised by the President as being competent to exercise the powers of the Sadar-i -Riyasat.”.

**(21) PART XX.**

*Article 368.*—

- (a) in clause (2), add the following further proviso, namely:—

“Provided further that no such amendment shall have effect in relation to the State of Jammu and Kashmir unless applied by order of the President under clause (1) of article 370.”;

- (b) omit clauses (4) and (5) and after clause (3) add the following clause, namely :—

“(4) No law made by the Legislature of the State of Jammu and Kashmir seeking to make any change in or in the effect of any provision of the Constitution of Jammu and Kashmir relating to:—

(a) appointment, powers, functions, duties, emoluments, allowances, privileges or immunities of the Governor; or

(b) superintendence, direction and control of elections by the Election Commission of India, eligibility for inclusion in the electoral rolls without discrimination, adult suffrage and composition of the Legislative Council, being matters specified in sections 138, 139, 140 and 50 of the Constitution of Jammu and Kashmir,

shall have any effect unless such law has, after having been reserved for the consideration of the President, received his assent.”.

**(22) PART XXI.—**

(a) Omit articles 369, 371, 371A, 372A, 373 and articles 376 to 378A and 392.

(b) Article 372.—

(A) omit clauses (2) and (3) ;

(B) references to the laws in force in the territory of India shall include references to *hidayats*, *ailans*, *ishtihars*, circulars, *robkars*, *irshads*, *yadashts*, State Council Resolutions, Resolutions of the Constituent Assembly, and other instruments having the force of law in the territory of the State of Jammu and Kashmir;

(C) references to the commencement of the Constitution shall be construed as references to the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954 (C.O.48), *i.e.*, the 14th day of May, 1954.

(c) Article 374. —

(A) omit clauses (1), (2), (3) and (5);

(B) in clause (4), the reference to the authority functioning as the Privy Council of a State shall be construed as a reference to the Advisory Board constituted under the Jammu and Kashmir Constitution Act, Svt. 1996, and references to the commencement of the Constitution shall be construed as references to the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954, *i.e.*, the 14th day of May, 1954.

**(23) PART XXII.—Omit articles 394 and 395.**

**(24) THIRD SCHEDULE.—Omit forms V, VI, VII and VIII.**

**(25) FIFTH SCHEDULE.—This Schedule is not applicable to the State of Jammu and Kashmir.**

**(26) SIXTH SCHEDULE.—This Schedule is not applicable to the State of Jammu and Kashmir.**

**(27) SEVENTH SCHEDULE.—**

(a) List I —Union List:—

(A) omit entry 2A;

(B) for entry 3, substitute the following entry, namely:—

“3. Administration of cantonments.”;

(C) omit entries 8, 9, 34 and 79;

(D) in entry 72, the reference to the States shall be construed.—

(i) in relation to appeals to the Supreme Court from any decision or order of the High Court of the State of Jammu and Kashmir made in an election petition whereby an election to either House of the Legislature of that State has been called in question, as including a reference to the State of Jammu and Kashmir;

(ii) in relation to other matters, as not including a reference to that State;



(E) in entry 81, omit “Inter-State migration”;

(F) for entry 97, substitute the following entry, namely:—

‘97. Prevention of activities—

(a) involving terrorist acts directed towards overawing the Government as by law established or striking terror in the people or any section of the people or alienating any section of the people or adversely affecting the harmony amongst different sections of the people;

(b) directed towards disclaiming, questioning or disrupting the sovereignty and territorial integrity of India or bringing about cession of a part of the territory of India or secession of a part of the territory of India from the Union or causing insult to the Indian National Flag, the Indian National Anthem and this Constitution;

taxes on foreign travel by sea or air, on inland air travel and on postal articles, including money orders, phonograms and telegrams.

*Explanation.*— In this entry, “terrorist act” has the same meaning as in the *Explanation* to article 248.’.

(b) Omit List II—State List.

(c) List III— Concurrent List.—

(A) for entry 1, substitute the following entry, namely:—

“1. Criminal law (excluding offences against laws with respect to any of the matters specified in List I and excluding the use of naval, military or air forces or any other armed forces of the Union in aid of the civil power) in so far as such criminal law relates to offences against laws with respect to any of the matters specified in this List.”;

(B) for entry 2, substitute the following entry, namely:—

“2. Criminal procedure (including prevention of offences and constitution and organisation of criminal courts, except the Supreme Court and the High Court) in so far as it relates to,—

(i) offences against laws with respect to any matters being matters with respect to which Parliament has power to make laws; and

(ii) administration of oaths and taking of affidavits by diplomatic and consular officers in any foreign country.”;

(C) omit entry 3, entries 5 to 10 (both inclusive), entries 14, 15, 17, 20, 24, 27, 28, 29, 31, 32, 37, 38, 41 and 44;

(D) entries 11A, 17A, 17B, 20A and 33A are not applicable to the State of Jammu and Kashmir;

(E) for entry 12, substitute the following entry, namely:—

“12. Evidence and oaths in so far as they relate to,—

(i) administration of oaths and taking of affidavits by diplomatic and consular officers in any foreign country; and

(ii) any other matter being matters with respect to which Parliament has power to make laws.”;

(F) for entry 13, substitute the following entry, namely:—

“13. Civil procedure in so far as it relates to administration of oaths and taking of affidavits by diplomatic and consular officers in any foreign country.”;

(G) for entry 25, substitute the following entry, namely:—

“25. Vocational and technical training of labour.”;

(H) for entry 30, substitute the following entry, namely:—

“30. Vital statistics in so far as they relate to births and deaths including registration of births and deaths.”;

(I) for entry 42, substitute the following entry, namely:—

“42 Acquisition and requisitioning of property, so far as regards acquisition of any property covered by entry 67 of List I or entry 40 of List III or of any human work of art which has artistic or aesthetic value.”;

(J) in entry 45, for “List II or List III” substitute “this List”.

**(28) NINTH SCHEDULE.—**

(a) after entry 64, add the following entries, namely:—

“64A. The Jammu and Kashmir State Kuth Act (No. 1 of Svt. 1978).

64B. The Jammu and Kashmir Tenancy Act (No. II of Svt. 1980).

64C. The Jammu and Kashmir Alienation of Land Act (No. V of Svt. 1995).

64D. The Jammu and Kashmir Big Landed Estates Abolition Act (No. XVII of Svt. 2007).

64E. Order No. 6-H of 1951, dated the 10th March, 1951, regarding Resumption of Jagirs and other assignments of land revenue, etc.

64F. The Jammu and Kashmir Restitution of Mortgaged Properties Act, 1976 (Act XIV of 1976).

64G. The Jammu and Kashmir Debtors’ Relief Act, 1976 (Act XV of 1976).”.

(b) entries 65 to 86 are not applicable to the State of Jammu and Kashmir;

(c) after entry 86, insert the following entry, namely:—

“87. The Representation of the People Act, 1951 (Central Act 43 of 1951), the Representation of the People (Amendment) Act, 1974 (Central Act 58 of 1974) and the Election Laws (Amendment) Act, 1975 (Central Act 40 of 1975).”;

(d) after entry 91, insert the following entry, namely:—

“92. The maintenance of Internal Security Act, 1971 (Central Act 26 of 1971).”;

(e) after entry 129, insert the following entry, namely:—

“130. The Prevention of Publication of Objectionable Matter Act, 1976 (Central Act 27 of 1976).”;

(f) after insertion of the entries 87, 92 and 130 as indicated above, renumber entries 87 to 188 as entries 65 to 166 respectively.

**(29) TENTH SCHEDULE.—**

(a) for the brackets, words and figures “[Articles 102(2) and 191(2)]”, the brackets, word and figures “[Article 102(2)]” shall be substituted;

(b) in clause (a) of paragraph 1, the words “or the Legislative Assembly or, as the case may be, either House of the Legislature of a State” shall be omitted;

(c) in paragraph 2,—

(i) in sub-paragraph (1), in sub-clause (ii) of clause (b) of the *Explanation*, the words and figures “or, as the case may be, article 188” shall be omitted;

(ii) in sub-paragraph (3), the words and figures “or, as the case may be, article 188” shall be omitted;

(iii) in sub-paragraph (4), the reference to the commencement of the Constitution (Fifty-second Amendment) Act, 1985 shall be construed as a reference to the commencement of the Constitution (Application to Jammu and Kashmir) Amendment Order, 1989;

(d) in paragraph 5, the words “or the Chairman or the Deputy Chairman of the Legislative Council of a State or the Speaker or the Deputy Speaker of the Legislative Assembly of a State” shall be omitted;

(e) in sub-paragraph (2) of paragraph 6, the words and figures “or, as the case may be, proceedings in the Legislature of a State within the meaning of article 212” shall be omitted;

(f) in sub-paragraph (3) of paragraph 8, the words and figures “or, as the case may be, article 194,” shall be omitted.

**APPENDIX-III**  
**EXTRACTS FROM THE CONSTITUTION (FORTY-FOURTH**  
**AMENDMENT) ACT, 1978**

\* \* \* \* \*

**1. Short title and commencement.**—(1) \*\*\*

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

\* \* \* \* \*

**3. Amendment of article 22.**—In article 22 of the Constitution,—

(a) for clause (4), the following clause shall be substituted, namely:—

‘(4) No law providing for preventive detention shall authorise the detention of a person for a longer period than two months unless an Advisory Board constituted in accordance with the recommendations of the Chief Justice of the appropriate High Court has reported before the expiration of the said period of two months that there is in its opinion sufficient cause for such detention:

Provided that an Advisory Board shall consist of a Chairman and not less than two other members, and the Chairman shall be a serving Judge of the appropriate High Court and the other members shall be serving or retired Judges of any High Court:

Provided further that nothing in this clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (a) of clause (7).

*Explanation.*—In this clause, “appropriate High Court” means,—

(i) in the case of the detention of a person in pursuance of an order of detention made by the Government of India or an officer or authority subordinate to that Government, the High Court for the Union territory of Delhi;

(ii) in the case of the detention of a person in pursuance of an order of detention made by the Government of any State (other than a Union territory), the High Court for that State; and

(iii) in the case of the detention of a person in pursuance of an order of detention made by the administrator of a Union territory or an officer or authority subordinate to such administrator, such High Court as may be specified by or under any law made by Parliament in this behalf.’;

(b) in clause (7),—

(i) sub-clause (a) shall be omitted;

(ii) sub-clause (b) shall be re-lettered as sub-clause (a); and

(iii) sub-clause (c) shall be re-lettered as sub-clause (b) and in the sub-clause as so re-lettered, for the words, brackets, letter and figure “sub-clause (a) of clause (4)”, the word, brackets and figure “clause (4)” shall be substituted.

\* \* \* \* \*

## APPENDIX-IV

### THE CONSTITUTION (EIGHTY-EIGHTH AMENDMENT) ACT, 2003

[15th January, 2004.]

An Act further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

**1. Short title and Commencement.**—(1) This Act may be called the Constitution (Eighty-eighth Amendment) Act, 2003.

(2) It shall come into force on such date\* as the Central Government may, by notification in the Official Gazette, appoint.

**2. Insertion of new article 268A.**—After article 268 of the Constitution, the following article shall be inserted, namely:—

“268A. **Service tax levied by Union and collected and appropriated by the Union and the States.**—(1) Taxes on services shall be levied by the Government of India and such tax shall be collected and appropriated by the Government of India and the States in the manner provided in clause (2).

(2) The proceeds in any financial year of any such tax levied in accordance with the provisions of clause (1) shall be—

(a) collected by the Government of India and the States;

(b) appropriated by the Government of India and the States,

in accordance with such principles of collection and appropriation as may be formulated by Parliament by law.”.

**3. Amendment of article 270.**—In article 270 of the Constitution, in clause (1), for the words and figures “articles 268 and 269”, the words, figures and letter “articles 268, 268A and 269” shall be substituted.

**4. Amendment of Seventh Schedule.**—In the Seventh Schedule to the Constitution, in List I—Union List, after entry 92B, the following entry shall be inserted, namely:—  
“92C. Taxes on services.”.

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\*Date yet to be notified.

**APPENDIX-V**  
**THE CONSTITUTION (ONE HUNDREDTH AMENDMENT)**

ACT, 2015

[28th May, 2015.]

An Act further to amend the Constitution of India to give effect to the acquiring of territories by India and transfer of certain territories to Bangladesh in pursuance of the agreement and its protocol entered into between the Governments of India and Bangladesh.

Be it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

**1. Short title.**—This Act may be called the Constitution (One Hundredth Amendment) Act, 2015.

**2. Definitions.**—In this Act,—

(a) “acquired territory” means so much of the territories comprised in the India-Bangladesh agreement and its protocol and referred to in the First Schedule as are demarcated for the purpose of being acquired by India from Bangladesh in pursuance of the agreement and its protocol referred to in clause (c);

(b) “appointed day” means such date as the Central Government may, by notification in the Official Gazette, appoint as the date for acquisition of territories from Bangladesh and transfer of the territories to Bangladesh in pursuance of the India-Bangladesh agreement and its protocol, after causing the territories to be so acquired and transferred as referred to in the First Schedule and Second Schedule and demarcated for the purpose;

(c) “India-Bangladesh agreement” means the agreement between the Government of the Republic of India and the Government of the People’s Republic of Bangladesh concerning the Demarcation of the Land Boundary between India and Bangladesh and Related Matters dated the 16th day of May, 1974, Exchange of Letters dated the 26th day of December, 1974, the 30th day of December, 1974, the 7th day of October, 1982, the 26th day of March, 1992 and protocol to the said agreement dated the 6th day of September, 2011, entered into between the Governments of India and Bangladesh, the relevant extracts of which are set out in the Third Schedule;

(d) “transferred territory”, means so much of the territories comprised in the India-Bangladesh agreement and its protocol and referred to in the Second Schedule as are demarcated for the purpose of being transferred by India to Bangladesh in pursuance of the agreements and its protocol referred to in clause (c).

**3. Amendment of First Schedule to Constitution.**—As from the appointed day, in the First Schedule to the Constitution,—

(a) in the paragraph relating to the territories of the State of Assam, the words, brackets and figures “and the territories referred to in Part I of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015, notwithstanding anything contained in clause (a) of section 3 of the Constitution (Ninth Amendment) Act, 1960, so far as it relates to the territories referred to in Part I of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015”, shall be added at the end;

(b) in the paragraph relating to the territories of the State of West Bengal, the words, brackets and figures “and also the territories referred to in Part III of the First Schedule but excluding the territories referred to in Part III of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015, notwithstanding anything contained in clause (c) of section 3 of the Constitution (Ninth Amendment) Act, 1960, so far as it relates to the territories referred to in Part III of the First Schedule and the territories referred to in Part III of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015”, shall be added at the end;

(c) in the paragraph relating to the territories of the State of Meghalaya, the words, brackets and figures “and the territories referred to in Part I of the First Schedule but excluding the territories referred to in Part II of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015”, shall be added at the end;

(d) in the paragraph relating to the territories of the State of Tripura, the words, brackets and figures “and the territories referred to in Part II of the First Schedule to the Constitution (One Hundredth Amendment) Act, 2015, notwithstanding anything contained in clause (d) of section 3 of the Constitution (Ninth Amendment) Act, 1960, so far as it relates to the territories referred to in Part II of the First Schedule to the Constitution (One Hundredth Amendment) Act, 2015”, shall be added at the end.

#### THE FIRST SCHEDULE

[See sections 2(a), 2(b) and 3]

##### PART I

The acquired territory in relation to Article 2 of the agreement dated the 16th day of May, 1974 and Article 3 (I) (b) (ii) (iii) (iv) (v) of the protocol dated the 6th day of September, 2011.

##### PART II

The acquired territory in relation to Article 2 of the agreement dated the 16th day of May, 1974 and Article 3 (I) (c) (i) of the protocol dated the 6th day of September, 2011.

##### PART III

The acquired territory in relation to Articles 1(12) and 2 of the agreement dated the 16th day of May, 1974 and Articles 2 (II), 3 (I) (a) (iii) (iv) (v) (vi) of the protocol dated the 6th day of September, 2011.

#### THE SECOND SCHEDULE

[See sections 2(b), 2(d) and 3]

##### PART I

The transferred territory in relation to Article 2 of the agreement dated 16th day of May, 1974 and Article 3 (I) (d) (i) (ii) of the protocol dated 6th day of September, 2011.

##### PART II

The transferred territory in relation to Article 2 of the agreement dated the 16th day of May, 1974 and Article 3 (I) (b) (i) of the protocol dated 6th day of September, 2011.

##### PART III

The transferred territory in relation to Articles 1(12) and 2 of the agreement dated the 16th day of May, 1974 and Articles 2 (II), 3 (I) (a) (i) (ii) (vi) of the protocol dated the 6th day of September, 2011.

#### THE THIRD SCHEDULE

[See section 2(c)]

I. EXTRACTS FROM THE AGREEMENT BETWEEN GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH CONCERNING THE DEMARCATION OF THE LAND BOUNDARY BETWEEN INDIA AND BANGLADESH AND RELATED MATTERS DATED THE 16TH DAY OF MAY, 1974

##### Article 1 (12): ENCLAVES

The Indian enclaves in Bangladesh and the Bangladesh enclaves in India should be exchanged expeditiously, excepting the enclaves mentioned in paragraph 14 without claim to compensation for the additional area going to Bangladesh.

##### Article 2:

The Governments of India and Bangladesh agree that territories in adverse possession in areas already demarcated in respect of which boundary strip maps are already prepared, shall be exchanged within six months of the signing of the boundary strip maps by the plenipotentiaries. They may sign the relevant maps as early as possible as and in any case not later than the 31st December, 1974. Early measures may be taken to print maps in respect of other areas where demarcation has already taken place. These should be printed by the 31st May, 1975 and signed by the plenipotentiaries thereafter in order that the exchange of adversely held possessions in these areas may take place by the 31st December, 1975. In sectors still to be demarcated, transfer of territorial jurisdiction may take place within six months of the signature by plenipotentiaries on the concerned boundary strip maps.

II. EXTRACTS FROM THE PROTOCOL TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH CONCERNING THE DEMARCATION OF THE LAND BOUNDARY BETWEEN INDIA AND BANGLADESH AND RELATED MATTERS, DATED THE 6TH DAY OF SEPTEMBER, 2011

Article 2:

(II) Article 1 Clause 12 of the 1974 Agreement shall be implemented as follows:—

*Enclaves*

111 Indian Enclaves in Bangladesh and 51 Bangladesh Enclaves in India as per the jointly verified cadastral enclave maps and signed at the level of DGLR&S, Bangladesh and DLR&S, West Bengal (India) in April, 1997, shall be exchanged without claim to compensation for the additional areas going to Bangladesh.

Article 3:

(I) Article 2 of the 1974 Agreement shall be implemented as follows:—

The Government of India and the Government of Bangladesh agree that the boundary shall be drawn as a fixed boundary for territories held in Adverse Possession as determined through joint survey and fully depicted in the respective adversely possessed land area Index Map (APL map) finalised by the Land Records and Survey Departments of both the countries between December, 2010 and August, 2011, which are fully described in clause (a) to (d) below.

The relevant strip maps shall be printed and signed by the Plenipotentiaries and transfer of territorial jurisdiction shall be completed simultaneously with the exchange of enclaves. The demarcation of the boundary, as depicted in the above-mentioned Index Maps, shall be as under:—

**(a) West Bengal Sector**

*(i) Bousmari – Madhugari (Kushtia-Nadia) area*

The boundary shall be drawn from the existing Boundary Pillar Nos. 154/5-S to 157/1-S to follow the centre of old course of river Mathabanga, as depicted in consolidation map of 1962, as surveyed jointly and agreed in June, 2011.

*(ii) Andharkota (Kushtia-Nadia) area*

The boundary shall be drawn from existing Boundary Pillar No. 152/5-S to Boundary Pillar No. 153/1-S to follow the edge of existing River Mathabanga as jointly surveyed and agreed in June, 2011.

*(iii) Pakuria (Kushtia-Nadia) area*

The boundary shall be drawn from existing Boundary Pillar No. 151/1-S to Boundary Pillar No. 152/2-S to follow the edge of River Mathabanga as jointly surveyed and agreed in June, 2011.

*(iv) Char Mahishkundi (Kushtia-Nadia) area*



The boundary shall be drawn from existing Boundary Pillar No. 153/1-S to Boundary Pillar No. 153/9-S to follow the edge of River Mathabanga as jointly surveyed and agreed in June, 2011.

(v) *Haripal/Khutadah/Battoli/Sapameri/LNpur (Patari) (Naogaon-Malda) area*

The boundary shall be drawn as line joining from existing Boundary Pillar No. 242/S/13, to Boundary Pillar No. 243/7-S/5 and as jointly surveyed and agreed in June, 2011.

(vi) *Berubari (Panchagarh-Jalpaiguri area)*

The boundary in the area Berubari (Panchagarh-Jalpaiguri) adversely held by Bangladesh, and Berubari and Singhapara-Khudipara (Panchagarh-Jalpaiguri), adversely held by India shall be drawn as jointly demarcated during 1996-1998.

**(b) Meghalaya Sector**

(i) *Lobachera-Nuncherra*

The boundary from existing Boundary Pillar No. 1315/4-S to Boundary Pillar No. 1315/15-S in Lailong - Balichera, Boundary Pillar No. 1316/1-S to Boundary Pillar No. 1316/11-S in Lailong- Noonchera, Boundary Pillar No. 1317 to Boundary Pillar No. 1317/13-S in Lailong- Lahiling and Boundary Pillar No. 1318/1-S to Boundary Pillar No. 1318/2-S in Lailong- Lobhachera shall be drawn to follow the edge of tea gardens as jointly surveyed and agreed in December, 2010.

(ii) *Pyrdiwah/ Padua Area*

The boundary shall be drawn from existing Boundary Pillar No. 1270/1-S as per jointly surveyed and mutually agreed line till Boundary Pillar No. 1271/1-T. The Parties agree that the Indian Nationals from Pyrdiwah village shall be allowed to draw water from Piyang River near point No. 6 of the agreed Map.

(iii) *Lyngkhat Area*

(aa) *Lyngkhat-I/Kulumcherra and Lyngkhat-II/ Kulumcherra*

The boundary shall be drawn from existing Boundary Pillar No. 1264/4-S to Boundary Pillar No. 1265 and BP No. 1265/6-S to 1265/9-S as per jointly surveyed and mutually agreed line.

(ab) *Lyngkhat-III/Sonarhat*

The boundary shall be drawn from existing Boundary Pillar No. 1266/13-S along the nallah southwards till it meets another nallah in the east-west direction, thereafter it shall run along the northern edge of the nallah in east till it meets the existing International Boundary north of Reference Pillar Nos. 1267/4-R-B and 1267/3-R-I.

(iv) *Dawki/Tamabil area*

The boundary shall be drawn by a straight line joining existing Boundary Pillar Nos. 1275/1-S to Boundary Pillar Nos. 1275/7-S. The Parties agree to fencing on 'zero line' in this area.

(v) *Naljuri/Sreepur Area*

*(aa) Naljuri I*

The boundary shall be a line from the existing Boundary Pillar No. 1277/2-S in southern direction up to three plots as depicted in the strip Map No. 166 till it meets the nallah flowing from Boundary Pillar No. 1277/5-T, thereafter it will run along the western edge of the nallah in the southern direction up to 2 plots on the Bangladesh side, thereafter it shall run eastwards till it meets a line drawn in southern direction from Boundary Pillar No. 1277/4-S.

*(ab) Naljuri III*

The boundary shall be drawn by a straight line from existing Boundary Pillar No. 1278/2-S to Boundary Pillar No. 1279/ 3-S.

*(vi) Muktapur/ Dibir Hawor Area*

The Parties agree that the Indian Nationals shall be allowed to visit Kali Mandir and shall also be allowed to draw water and exercise fishing rights in the water body in the Muktapur / Dibir Hawor area from the bank of Muktapur side.

**(c) Tripura Sector**

*(i) Chandannagar-Champarai Tea Garden area in Tripura/ Moulvi Bazar sector*

The boundary shall be drawn along Sonaraichhera river from existing Boundary Pillar No. 1904 to Boundary Pillar No. 1905 as surveyed jointly and agreed in July, 2011.

**(d) Assam Sector**

*(i) Kalabari (Boroibari) area in Assam sector*

The boundary shall be drawn from existing Boundary Pillar No. 1066/24-T to Boundary Pillar No. 1067/16-T as surveyed jointly and agreed in August, 2011.

*(ii) Pallathal area in Assam sector*

The boundary shall be drawn from existing Boundary Pillar No. 1370/3-S to 1371/ 6-S to follow the outer edge of the tea garden and from Boundary Pillar No. 1372 to 1373/2-S along outer edge of the pan plantation.

III. LIST OF EXCHANGE OF ENCLAVES BETWEEN INDIA AND BANGLADESH IN PURSUANT TO ARTICLE 1 (12) OF THE AGREEMENT DATED 16TH MAY, 1974 AND THE PROTOCOL TO THE AGREEMENT DATED 6TH SEPTEMBER, 2011

**A. EXCHANGEABLE INDIAN ENCLAVES IN BANGLADESH WITH AREA**

Sl.	Name of Chhits No.	Chhit No.	Lying within Police station Bangladesh	Lying within Police station W. Bengal	Area in acres
1	2	3	4	5	6
<i>A. Enclaves with independent chhits</i>					
1.	Garati	75	Pochagar	Haldibari	58.23
2.	Garati	76	Pochagar	Haldibari	0.79
3.	Garati	77	Pochagar	Haldibari	18
4.	Garati	78	Pochagar	Haldibari	958.66
5.	Garati	79	Pochagar	Haldibari	1.74
6.	Garati	80	Pochagar	Haldibari	73.75
7.	Bingimari Part-I	73	Pochagar	Haldibari	6.07
8.	Nazirganja	41	Boda	Haldibari	58.32
9.	Nazirganja	42	Boda	Haldibari	434.29
10.	Nazirganja	44	Boda	Haldibari	53.47
11.	Nazirganja	45	Boda	Haldibari	1.07
12.	Nazirganja	46	Boda	Haldibari	17.95
13.	Nazirganja	47	Boda	Haldibari	3.89
14.	Nazirganja	48	Boda	Haldibari	73.27
15.	Nazirganja	49	Boda	Haldibari	49.05
16.	Nazirganja	50	Boda	Haldibari	5.05
17.	Nazirganja	51	Boda	Haldibari	0.77
18.	Nazirganja	52	Boda	Haldibari	1.04
19.	Nazirganja	53	Boda	Haldibari	1.02
20.	Nazirganja	54	Boda	Haldibari	3.87
21.	Nazirganja	55	Boda	Haldibari	12.18
22.	Nazirganja	56	Boda	Haldibari	54.04
23.	Nazirganja	57	Boda	Haldibari	8.27
24.	Nazirganja	58	Boda	Haldibari	14.22
25.	Nazirganja	60	Boda	Haldibari	0.52
26.	Putimari	59	Boda	Haldibari	122.8
27.	Daikhata Chhat	38	Boda	Haldibari	499.21
28.	Salbari	37	Boda	Haldibari	1188.93

1	2	3	4	5	6
29.	Kajal Dighi	36	Boda	Haldibari	771.44
30.	Nataktoka	32	Boda	Haldibari	162.26
31.	Nataktoka	33	Boda	Haldibari	0.26
32.	Beuladanga Chhat	35	Boda	Haldibari	0.83
33.	Balapara Iagrabar	3	Debiganj	Haldibari	1752.44
34.	Bara Khankikharja Citaldaha	30	Dimla	Haldibari	7.71
35.	Bara Khankikharja Citaldaha	29	Dimla	Haldibari	36.83
36.	Barakhangir	28	Dimla	Haldibari	30.53
37.	Nagarjikobari	31	Dimla	Haldibari	33.41
38.	Kuchlibari	26	Patgram	Mekliganj	5.78
39.	Kuchlibari	27	Patgram	Mekliganj	2.04
40.	Bara Kuchlibari	Fragment of J.L.107 of P.S Mekliganj	Patgram	Mekliganj	4.35
41.	Jamaldaha- Balapukhari	6	Patgram	Mekliganj	5.24
42.	Uponchowki kuchlibari	115/2	Patgram	Mekliganj	0.32
43.	Uponchowki kuchlibari	7	Patgram	Mekliganj	44.04
44.	Bhothnri	11	Patgram	Mekliganj	36.83
45.	Balapukhari	5	Patgram	Mekliganj	55.91
46.	Bara Khangir	4	Patgram	Mekliganj	50.51
47.	Bara Khangir	9	Patgram	Mekliganj	87.42
48.	Chhat Bogdokra	10	Patgram	Mekliganj	41.7
49.	Ratanpur	11	Patgram	Mekliganj	58.91
50.	Bogdokra	12	Patgram	Mekliganj	25.49
51.	Fulker Dabri	Fragment of J.L. 107 of P.S Mekliganj	Patgram	Mekliganj	0.88

1	2	3	4	5	6
52.	Kharkharia	15	Patgram	Mekliganj	60.74
53.	Kharkharia	13	Patgram	Mekliganj	51.62
54.	Lotamari	14	Patgram	Mekliganj	110.92
55.	Bhotbari	16	Patgram	Mekliganj	205.46
56.	Komat Changraband ha	16A	Patgram	Mekliganj	42.8
57.	Komat Changraband ha	17A	Patgram	Mekliganj	16.01
58.	Panisala	17	Patgram	Mekliganj	137.66
59.	Dwarikamari Khasbash	18	Patgram	Mekliganj	36.5
60.	Panisala	153/P	Patgram	Mekliganj	0.27
61.	Panisala	153/0	Patgram	Mekliganj	18.01
62.	Panisala	19	Patgram	Mekliganj	64.63
63.	Panisala	21	Patgram	Mekliganj	51.4
64.	Lotamari	20	Patgram	Mekliganj	283.53
65.	Lotamari	22	Patgram	Mekliganj	98.85
66.	Dwarikamari	23	Patgram	Mekliganj	39.52
67.	Dwarikamari	25	Patgram	Mekliganj	45.73
68.	Chhat Bhothat	24	Patgram	Mekliganj	56.11
69.	Baakata	131	Patgram	Hathabhanga	22.35
70.	Baakata	132	Patgram	Hathabhanga	11.96
71.	Baakata	130	Patgram	Hathibhanga	20.48
72.	Bhogramguri	133	Patgram	Hathibhanga	1.44
73.	Chenakata	134	Patgram	Mekliganj	7.81
74.	Banskata	119	Patgram	Mathabanga	413.81
75.	Banskata	120	Patgram	Mathabanga	30.75
76.	Banskata	121	Patgram	Mathabanga	12.15
77.	Banskata	113	Patgram	Mathabanga	57.86
78.	Banskata	112	Patgram	Mathabanga	315.04
79.	Banskata	114	Patgram	Mathabanga	0.77
80.	Banskata	115	Patgram	Mathabanga	29.2
81.	Banskata	122	Patgram	Mathabanga	33.22

1	2	3	4	5	6
82.	Banskata	127	Patgram	Mathabanga	12.72
83.	Banskata	128	Patgram	Mathabanga	2.33
84.	Banskata	117	Patgram	Mathabanga	2.55
85.	Banskata	118	Patgram	Mathabanga	30.98
86.	Banskata	125	Patgram	Mathabanga	0.64
87.	Banskata	126	Patgram	Mathabanga	1.39
88.	Banskata	129	Patgram	Mathabanga	1.37
89.	Banskata	116	Patgram	Mathabanga	16.96
90.	Banskata	123	Patgram	Mathabanga	24.37
91.	Banskata	124	Patgram	Mathabanga	0.28
92.	Gotamari Chhit	135	Hatibandha	Sitalkuchi	126.59
93.	Gotamari Chhit	136	Hatibandha	Sitalkuchi	20.02
94.	Banapachai	151	Lalmonirhat	Dinhata	217.29
95.	Banapachai Bhitarkuthi	152	Lalmonirhat	Dinhata	81.71
96.	Dasiar Chhara	150	Fulbari	Dinhata	1643.44
97.	Dakurhat- Dakinirkuthi	156	Kurigram	Dinhata	14.27
98.	Kalamati	141	Bhurungamari	Dinhata	21.21
99.	Bhahobganj	153	Bhurungamari	Dinhata	31.58
100.	Baotikursa	142	Bhurungamari	Dinhata	45.63
101.	Bara Coachulka	143	Bhurungamari	Dinhata	39.99
102.	Gaochulka II	147	Bhurungamari	Dinhata	0.9
103.	Gaochulka I	146	Bhurungamari	Dinhata	8.92
104.	Dighaltari II	145	Bhurungamari	Dinhata	8.81
105.	Dighaltari I	144	Bhurungamari	Dinhata	12.31
106.	Chhoto Garaljhara II	149	Bhurungamari	Dinhata	17.85
107.	Chhoto Garaljhara I	148	Bhurungamari	Dinhata	35.74
108.	1 chhit* without name & JL No. at the southern and of JL No. 38 & southern and of JL No. 39 (locally known as Ashokabari**)		Patgram	Mathabhanga	3.5

\* Corrected *vide* 150th (54th) India-Bangladesh Boundary Conference held at Kolkata from 29th September to 2nd October, 2002.

\*\* Corrected *vide* 152nd (56th) India-Bangladesh Boundary Conference held at Kochbihar, India from 18th-20th September, 2003.

1	2	3	4	5	6
<i>Enclaves with Fragmented Chhits</i>					
109.	(i) Bewladanga	34	Haldibari	Boda	862.46
	(ii) Bewladanga	Fragment	Haldibari	Debiganj	
110.	(i) Kotbhajni	2	Haldibari	Debiganj	2012.27
	(ii) Kotbhajni	Fragment	Haldibari	Debiganj	
	(iii) Kotbhajni	Fragment	Haldibari	Debiganj	
	(iv) Kotbhajni	Fragment	Haldibari	Debiganj	
111.	(i) Dahala	Khagrabri	Haldibari	Debiganj	2650.35
	(ii) Dahala	Fragment	Haldibari	Debiganj	
	(iii) Dahala	Fragment	Haldibari	Debiganj	
	(iv) Dahala	Fragment	Haldibari	Debiganj	
	(v) Dahala	Fragment	Haldibari	Debiganj	
	(vi) Dahala	Fragment	Haldibari	Debiganj	
					17160.63

The above given details of enclaves have been jointly compared and reconciled with records held by India and Bangladesh during the Indo-Bangladesh Conference held at Calcutta during 9th — 12th October, 1996 as well as during joint field inspection at Jalpaiguri (West Bengal) Panchagarh (Bangladesh) sector during 21—24 November, 1996.

*Note:* Name of enclave in Sl. No. 108 above has been identified as Ashokabari by joint ground verification during field season 1996-97.

Brig. J.R. Peter

Director Land Records & Survey  
(*Ex-Officio*) West Bengal, India  
& Director, Eastern Circle Survey  
of India, Calcutta.

Md. Shafi Uddin

Director General, Land Records  
and Surveys, Bangladesh.

**B. EXCHANGEABLE BANGLADESH ENCLAVES IN INDIA WITH AREA**

Sl. No.	Name of Chhits	Lying within Police station W. Bengal	Lying within Police station Bangladesh	J.L. No.	Area in acres
1	2	3	4	5	6
<i>A. Enclaves with independent chhits</i>					
1.	Chhit Kuchlibari	Mekliganj	Patgram	22	370.64
2.	Chhit Land of Kuchlibari	Mekliganj	Patgram	24	1.83
3.	Balapukhari	Mekliganj	Patgram	21	331.64
4.	Chhit Land of Panbari No. 2	Mekliganj	Patgram	20	1.13
5.	Chhit Panbari	Mekliganj	Patgram	18	108.59
6.	Dhabalsati Mirgipur	Mekliganj	Patgram	15	173.88
7.	Bamandal	Mekliganj	Patgram	11	2.24
8.	Chhit Dhabalsati	Mekliganj	Patgram	14	66.58
9.	Dhabalsati	Mekliganj	Patgram	13	60.45
10.	Srirampur	Mekliganj	Patgram	8	1.05
11.	Jote Nijjama	Mekliganj	Patgram	3	87.54
12.	Chhit Land of Jagatber No.3	Mathabha nga	Patgram	37	69.84
13.	Chhit Land of Jagatber No.1	Mathabha nga	Patgram	35	30.66
14.	Chhit Land of Jagatber No.2	Mathabha nga	Patgram	36	27.09
15.	Chhit Kokoabari	Mathabha nga	Patgram	47	29.49
16.	Chhit Bhandardaha	Mathabha nga	Patgram	67	39.96
17.	Dhabalguri	Mathabha nga	Patgram	52	12.5
18.	Chhit Dhabalguri	Mathabha nga	Patgram	53	22.31
19.	Chhit Land of Dhabalguri No.3	Mathabha nga	Patgram	70	1.33



1	2	3	4	5	6
20.	Chhit Land of Dhabalguri No.4	Mathabha nga	Patgram	71	4.55
21.	Chhit Land of Dhabalguri No.5	Mathabha nga	Patgram	72	4.12
22.	Chhit Land of Dhabalguri No.1	Mathabha nga	Patgram	68	26.83
23.	Chhit Land of Dhabalguri No.2	Mathabha nga	Patgram	69	13.95
24.	Mahishmari	Sitalkuchi	Patgram	54	122.77
25.	Bura Saradubi	Sitalkuchi	Hatibadha	13	34.96
26.	Falnapur	Sitalkuchi	Patgram	64	505.56
27.	Amjhol	Sitalkuchi	Hatibandha	57	1.25
28.	Kismat Batrigachh	Dinhata	Kaliganj	82	209.95
29.	Durgapur	Dinhata	Kaliganj	83	20.96
30.	Bansua Khamar Gitaldaha	Dinhata	Lalmonirhat	1	24.54
31.	Poaturkuthi	Dinhata	Lalmonirhat	37	589.94
32.	Paschim Bakalir Chhara	Dinhata	Bhurungam ari	38	151.98
33.	Madhya Bakalir Chhara	Dinhata	Bhurungam ari	39	32.72
34.	Purba Bakalir Chhara	Dinhata	Bhurungam ari	40	12.23
35.	Madhya Masaldanga	Dinhata	Bhurungam ari	3	136.66
36.	Madhya Chhit Masaldanga	Dinhata	Bhurungam ari	8	11.87
37.	Paschim Chhit Masaldanga	Dinhata	Bhurungam ari	7	7.6
38.	Uttar Masaldanga	Dinhata	Bhurungam ari	2	27.29
39.	Kachua	Dinhata	Bhurungam ari	5	119.74

1	2	3	4	5	6
40.	Uttar Bansjani	Tufanganj	Bhurungamari	1	47.17
41.	Chhat Tilai	Tufanganj	Bhurungamari	17	81.56
<i>B. Enclaves with Fragmented Chhits</i>					
42.	(i) Nalgram	Sitalkuchi	Patgarm	65	1397.34
	(ii) Nalgram (Fragment)	Sitalkuchi	Patgarm	65	
	(iii) Nalgram (Fragment)	Sitalkuchi	Patgarm	65	
43.	(i) Chhit Nalgram	Sitalkuchi	Patgarm	66	49.5
	(ii) Chhit Nalgram (Fragment)	Sitalkuchi	Patgarm	66	
44.	(i) Batrigachh	Dinhata	Kaliganj	81	577.37
	(ii) Batrigachh (Fragment)	Dinhata	Kaliganj	81	
	(iii) Batrigachh (Fragment)	Dinhata	Phulbari	9	
45.	(i) Karala	Dinhata	Phulbari	9	269.91
	(ii) Karala (fragment)	Dinhata	Phulbari	9	
	(iii) Karala (fragment)	Dinhata	Phulbari	8	
46.	(i) Sipprasad Mustati	Dinhata	Phulbari	8	373.2
	(ii) Sipprasad Mustati (Fragment)	Dinhata	Phulbari	6	
47.	(i) Dakshin Masaldanga	Dinhata	Bhurungamari	6	571.38
	(ii) Dakshin Masaldanga (Fragment)	Dinhata	Bhurungamari	6	
	(iii) Dakshin Masaldanga (Fragment)	Dinhata	Bhurungamari	6	
	(iv) Dakshin Masaldanga (Fragment)	Dinhata	Bhurungamari	6	

1	2	3	4	5	6
	(v) Dakshin Masaldanga (Fragment)	Dinhata	Bhurunga mari	6	
	(vi) Dakshin Masaldanga (Fragment)	Dinhata	Bhurunga mari	6	
48.	(i) Paschim Masaldanga	Dinhata	Bhurunga mari	4	29.49
	(ii) Paschim Masaldanga (Fragment)	Dinhata	Bhurunga mari	4	
49.	(i) Purba Chhit Masaldanga	Dinhata	Bhurunga mari	10	35.01
	(ii) Purba Chhit Masaldanga (Fragment)	Dinhata	Bhurunga mari	10	
50.	(i) Purba Masaldanga	Dinhata	Bhurunga mari	11	153.89
	(ii) Purba Masaldanga (Fragment)	Dinhata	Bhurunga mari	11	
51.	(i) Uttar Dhaldanga	Tufanganj	Bhurunga mari	14	24.98
	(ii) Uttar Dhaldanga (Fragment)	Tufanganj	Bhurunga mari	14	
	(iii) Uttar Dhaldanga (Fragment)	Tufanganj	Bhurunga mari	14	
Total Area					7,110.02

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Brig. J.R. Peter

Director Land Records & Survey (*Ex officio*) West Bengal, India & Director,  
Eastern Circle Survey of India,  
Calcutta.

Md. Shafi Uddin

Director General, Land Records  
and Surveys, Bangladesh.